IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3274 OF 2004

Deepak Dadaso Shinde .. Applicant.
Vs.
State of Maharashtra .. Respondent.

Mr.R.D.Suryawanshi for the applicant.
Mr.K.V.Saste APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 17TH AUGUST, 2004

P.C.:

. Heard Mr.Suryawanshi, learned counsel for the applicant and Mr.Saste, learned A.P.P. for the respondent.

2. The applicant has been shown arrested in C.R.No.15 of 2004 registered at Karad City police station under section 302 of Indian Penal Code. It is the prosecution case that on 10.1.2004 the deceased and the applicant, who were drunk at the relevant time, had a quarrel in which the applicant allegedly assaulted the deceased with kicks and fist blows and also gave blow with wooden stick. The occurrence was witnessed by three witnesses. There statements are consistent. According to

Mr.Suryawanshi, learned counsel for the applicant, the post mortem report shows that except one injury all other injuries were either Linear Contusion or minor abrasions. He further submitted that even if the allegations against the applicant are taken as true he cannot be said to have committed the offence under section 302 of Indian Penal Code. The allegations against the applicant would attract the provisions of section 304 part II. I would not like to express any opinion as to whether or not the offence would fall under section 302 at this stage. It is clear from the statements of the eye witnesses that it was not premeditated assault by the applicant. Both, the applicant as well as the deceased were drunk at the relevant time. The chargesheet has already been filed. The applicant does not has any adverse antecedents. Keeping that in view I am inclined to enlarge the applicant on bail.

. The applicant is directed to be enlarged on bail on his furnishing a personal bond of Rs.15,000/- with one or two sureties of the like amount to the satisfaction of the trial court, subject to condition that he shall not enter within the jurisdiction of Karad City police station for a

period of six months. The applicant shall keep inform his address where he propose to stay during the period of six months and report the nearest police station from the place of his residence on every Saturday between 10 am and 11 am during this period and after six months the applicant shall be allowed to enter within the jurisdiction of Karad City police station subject to condition that he shall report the concerned police station on every Saturday between 10 am and 11 am until the conclusion of his trial. It is needless to say that the applicant shall be allowed to enter the jurisdiction of Karad City police station during the aforestated period of six months for attending date/dates of hearing before the Additional Sessions Court at Karad.

. While passing this order, I shall not be understood to have expressed any opinion on merits of the case. The trial court will deal with the case uninfluenced by the observations made in this order.

. The application is disposed of.

(D.B.Bhosale, J.)